

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Western Division

| | | |
|--------------------------------|---|-------------------------------|
| UNITED STUDENT AID FUNDS, INC. |) | CASE NO. CV 08-03120 R (FFMx) |
| |) | |
| Plaintiff, |) | JUDGMENT IN A |
| |) | CIVIL CASE |
| v. |) | |
| |) | |
| IDEAL HEALTH CARE PR, |) | |
| VICTOR AHAIWE AND DOES 1-10, |) | |
| |) | |
| Defendants. |) | |

This action was tried by Judge Manuel L. Real without a jury, and the following decision was reached:

Plaintiff UNITED STUDENT AID FUNDS, INC. ("USA Funds") filed this action in order to compel Defendant IDEAL HEALTH CARE PR to comply with administrative wage garnishment orders issued pursuant to the Higher Education Act of 1965, regarding its' employee Christina E. Ines ("Ines") who has defaulted on one or more federally guaranteed student loans. As of July 21, 2008, the principle due was \$15,623.11, plus unpaid interest of \$1,214.40 and collection costs of \$3,456.63, for a total of \$20,294.14. Interest and other contractual charges continue to accrue at the rate of \$3.52 per day. See enclosed Declaration of MARY KAY MAUER.

USA FUNDS filed its complaint against Defendant on or about May 13, 2008. (Docket No. 1). An amended complaint, adding the principal of the company as an alter ego, VICTOR AHAIWE, was filed on June 24, 2008. (Docket No. 7). Both the company and

1 principal were served with the summons and complaint pursuant to Fed.R.Civ.P. 4 on June
2 29, 2008. (Docket Nos. 9-10). A response was therefore due on or before July 19, 2008.
3 No response having been received, upon request the Clerk of the Court entered a Default
4 against both Defendants on August 5, 2008. (Docket No. 14) After Plaintiff filed a motion
5 and Defendants failed to respond, on November 3, 2008, the Court granted USAF's Motion
6 and entered a default judgment. Defendants did not respond or otherwise appear at the
7 hearing. (Docket No. 21)

8 On May 18, 2009, this matter came before the Court on plaintiff United Student Aid
9 Funds, Inc.'s ("USA Funds") post-default Motion seeking various forms of relief. On August
10 14, 2009 the Court entered an Order as follows . (Docket No. 28):

- 11 a. First, the Court found and declared that the amount Ines owes to USA FUNDS
12 as of July 21, 2008, is \$20,294.14, calculated as follows: principal -
13 \$15,623.11, unpaid interest - \$1,214.40, and collection costs - \$3,456.63, plus
14 interest on that sum of \$20,294.14 at a per diem rate of \$3.52 thereafter.
- 15 b. Second, recognizing that USA FUNDS' complaint sought recovery of 15% of
16 the disposable pay payable by Defendants to Ines since October 30, 2007,
17 together with reasonable attorneys' fees and punitive damages, and
18 acknowledging that in order to determine the amount of compensation subject
19 to USA FUNDS' garnishment during the pertinent time period, the Court
20 agreed it was necessary to order Defendants to produce their payroll and other
21 records reflecting any consideration paid to Ines since October 30, 2007. The
22 Court Defendants must do so within 14 days of the date of entry of this order.
- 23 c. Once these records were obtained and the fees calculated, the Court directed
24 that Defendants shall pay to USA FUNDS an amount equal to 15% of the
25 disposable pay paid or payable to Ines since October 30, 2007, until the
26 sooner of her last date of employment or the date of entry of this Court's order,
27 up to the total amount of her liability to USA FUNDS, and if this amount was
28 not sufficient to pay USA FUNDS in full, Defendants shall remit on account of

1 USA FUNDS' garnishment 15% of the disposable pay payable by Defendants
 2 to Ines from the sooner of her last date of employment or the date of entry of
 3 this Court's order, up to the total amount of Ines' liability to USA FUNDS, less
 4 any credits applicable, until Ines' obligation to USA FUNDS is paid in full.

- 5 d. USA Funds shall recover costs from Defendants in the amount of \$1,004.33
 6 and attorneys' fees in the amount of \$5,448.00.

7 Defendants failed to comply. Thus, on March 15, 2010, the matter came before the
 8 Court on for a hearing on the Order to Show Cause ("OSC") issued by the Court on 8/14/09
 9 upon Plaintiff's request. Defendants failed to respond or appear.

10 Thus on April 13, 2010, the Court Ordered (Docket No. 38) that:

- 11 a. Plaintiff shall recover an award of punitive damages in the amount of \$5,000
 12 against Defendants IDEAL HEALTH CARE and VICTOR AHAIWE, said award
 13 to be joint and several;
 14 b. Based upon their knowing, willful and deliberate Failure to Comply with a Court
 15 Order directing Defendants IDEAL HEALTH CARE and VICTOR AHAIWE to
 16 produce financial records relating to the student loan borrower Christina Ines,
 17 Defendants shall be jointly and severally liable to Plaintiff for the outstanding
 18 balance of Ms. Ines student loan; and
 19 c. Pursuant to 20 U.S.C. § 1095(a)(6) Plaintiff may recover any attorneys fees
 20 and costs incurred in service of the OSC and the conduct of the hearing itself.
 21 Said fees and costs shall be included in a final bill of costs.

22 Therefore, IT IS ORDERED that Plaintiff shall recover from Plaintiffs as follows:

- 23 a. Defendants shall be jointly and severally liable to Plaintiff for the outstanding
 24 balance of Ms. Ines student loan.
 25 b. Defendants IDEAL HEALTH CARE and VICTOR AHAIWE shall pay to Plaintiff
 26 punitive damages in the amount of \$5,000, said award to be joint and several;
 27 c. Plaintiff shall recover costs from Defendants in the amount of \$1,004.33 and
 28 attorneys' fees in the amount of \$5,448.00 **plus** additional attorneys fees and

1 costs incurred in service of the OSC and the conduct of the hearing itself,
2 which are \$3,125 and \$865.96, respectively. All such fees and costs shall be
3 included in a bill of costs. Defendants may challenge the additional costs of
4 \$3,125 and \$865.96 by way of a motion to tax.

5 IT IS SO ORDERED.



6
7
8 Dated: June 2, 2010

HON. MANUEL L. REAL
U. S. DISTRICT JUDGE

9
10
11 Submitted by:
12 s/ Keith H. Rutman
13 KEITH H. RUTMAN
Attorney for Plaintiff
14 UNITED STUDENT AID FUNDS, INC.
Email: krutman@krutmanlaw.com
15
16
17
18
19
20
21
22
23
24
25
26
27
28